

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)
)
Telecommunications Relay Services)
and Speech-to-Speech Services for)
Individuals with Hearing and Speech)
Disabilities;)
)
Petition of Telco Group for Declaratory)
Ruling or Waiver)
)

CC Docket No. 98-67

OPPOSITION OF TELECOMMUNICATIONS FOR THE DEAF, INC.

Telecommunications for the Deaf, Inc. ("TDI"), hereby submits its opposition to the Petition for Declaratory Ruling or in the Alternative, Petition for Waiver by Telco Group, Inc., which was filed in the above-captioned proceeding. The Petition requests the Commission to exclude international revenues from the revenue base used to calculate payments due the Telecommunications Relay Services ("TRS") Fund. As explained below, the Commission should deny the Petition and find that the inclusion of international revenues for TRS Fund contributions is nondiscriminatory and equitable and supports the public interest.

TDI is a national advocacy organization that seeks to promote equal access in telecommunications and media for the 28 million Americans who are deaf, hard-of-hearing, late-deafened, or deaf-blind, so that they may enjoy the opportunities and benefits of the telecommunications revolution to which they are entitled. TDI believes that only by ensuring equal access for all Americans will society benefit from the myriad skills and talents of persons with disabilities.

I. Including International Revenues in the Contribution Calculation to the TRS Fund is Nondiscriminatory and Equitable

The Commission created the TRS Fund in 1993 when Congress added Section 225 to the Communications Act of 1934.¹ Pursuant to its rules, the Commission requires telecommunications common carriers to contribute to the TRS Fund based on their end user revenues—both interstate and international.² Additionally, payments to TRS providers expressly include the reasonable costs of international TRS calls.³ The Petition, therefore, improperly requests exclusion of international revenues from the TRS Fund payment calculations.

First, the TRS Fund differs fundamentally from the Universal Service Fund (“USF”) upon which Petitioner relies to support its argument that international revenues should be excluded from the TRS contribution base. The USF requires contributions from carriers for many types of services, including international services,⁴ while providing a limited exemption for carriers whose revenues from international services exceed 88% of their total revenues.⁵ The Commission established this limited exception because it found that international services did not directly benefit from the USF.⁶ In contrast, TRS providers do directly benefit from the inclusion of international revenues because the costs of providing international relay service are supported by the TRS Fund. Therefore, the Commission should deny the Petitioner’s request to

¹ *Telecommunications Services for Individuals with Hearing and Speech Disabilities, and the Americans with Disabilities Act of 1990*, Third Report and Order, 8 FCC Rcd 5300 (1993).

² 47 C.F.R. § 64.604(c)(5)(iii)(A).

³ 47 C.F.R. § 64.604(c)(5)(iii)(E).

⁴ 47 C.F.R. § 54.706(a).

⁵ *Federal State Joint Board on Universal Service*, Further Notice of Proposed Rulemaking and Report and Order, 17 FCC Rcd 3752, ¶ 125 (2002).

⁶ *Federal-State Joint Board on Universal Service*, Eighth Report and Order in CC Docket 96-45, 15 FCC Rcd 1679, ¶ 22 (1999).

extend the USF exception to the TRS Fund because it is inappropriate when providers do receive direct benefits from the TRS fund.

Second, the methodology for the TRS Fund cost recovery and contributions is nondiscriminatory and equitable. The Commission, through the National Exchange Carrier Association (“NECA”), has used the TRS Fund to support many types of relay service. For example, the TRS Fund generally compensates for voice-to-text, text-to-voice, speech-to-speech, video relay service (“VRS”), IP relay service, and Spanish language interpreting.⁷ These services are also supported when used to make international calls, with the exception of IP relay service.⁸ Accordingly, the Commission has provided cost recovery in a nondiscriminatory manner for nearly all types of relay services.

The Commission has also applied its contribution calculation in an equitable manner. Each carrier is required to contribute to the fund based on both international and interstate revenue because both types of service are supported by the TRS Fund. In addition, NECA adjusts the TRS Fund formula annually in order to adequately cover the necessary costs for TRS. Although the Petitioner may have a larger contribution amount than it would like, its TRS assessment is based on a thorough analysis and determination by NECA to set the fund size and a carrier contribution factor to ensure that TRS is sufficiently available.

II. The Public Interest is Served by Requiring Carriers to Contribute to the TRS Fund Based on International Revenues

Congress required the Commission to make TRS available to ensure that people who are deaf, hard of hearing, and speech disabled have access to communications services that allow

⁷ *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, Order, 18 FCC Rcd 12823 (2003).

⁸ The Commission does not currently support the costs for international IP Relay service “pending carrier efforts to ensure that one end of an international IP Relay call is within the United States.” *Id.* at ¶ 42.

them to communicate on a “functionally equivalent” basis with other individuals.⁹ Moreover, the Commission must ensure that the TRS is available “to the extent possible and in the most efficient manner” to people with hearing or speech disabilities.¹⁰

Relay services are available for international calls, and people who are deaf, hard of hearing, and speech disabled use a variety of relay services to make international calls. For example, newer relay technologies, such as VRS, have attracted new users and have made it easier for existing users to utilize communication networks. In addition, the TRS Fund has historically supported eligible carriers for providing international relay service. Thus, if the TRS Fund did not include international revenues, people who are deaf, hard of hearing, and speech disabled would be unable to make international calls or would not be able to use newer technologies because TRS providers would no longer have sufficient support to furnish international relay service.

Accordingly, the Commission should find that the public interest would be served by requiring carriers to continue to report international revenues to calculate the contribution amount for TRS Fund payments. Factoring international revenues into the contribution calculation is necessary to adequately support TRS, including international relay services.

CONCLUSION

For the reasons described above, the Commission should deny Telco Group Inc.’s Petition for Declaratory Ruling or in the alternative, Petition for Waiver. The TRS Fund

⁹ 47 U.S.C. § 225(a)(3).

¹⁰ 47 U.S.C. § 225(b)(1).

supports the costs of international service equitably and in a nondiscriminatory manner, and including international revenues serves the public interest.

Respectfully submitted,

A handwritten signature in cursive script that reads "Claude Stout / DDB". The signature is written in black ink and is positioned above a horizontal line.

Claude Stout
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Dated: November 24, 2004